IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3926 OF 2005
IN
FIRST APPEAL NO.1685 OF 2005

Sangli Miraj Kupwad Municipal Corporation, Sangli ...Applicant

vs.

Shankar Baburao Rawal and others ...Respondents

CORAM: A.S.OKA, J.
DATED: JULY 28, 2006.

P.C.:

1. Rule. Respondents waive service. Taken up for hearing forthwith. It is not in dispute that the decretal amount of Rs.7,21,760/- has been deposited by the Applicant with the Trial Court.

2. Shri Ingale appearing for the Applicant submitted that the Assistant Director of Town Planning had no authority to fix the market value beyond a certain limit. He submitted that in view of the limited power which the Assistant Director of Town Planning was possessing, the valuation was made by the Deputy Director of Town Planning. Shri Arjunwadkar appearing for the Respondent No.1 pointed out that as per the agreement between the parties the valuation was to be made by the Assistant Director of Town Planning, Sangli and only the interest amount was left to the decision of the Deputy Director. He submitted that the decree is

passed in terms of the valution suggested by the Assistant Director of Town Planning.

3. Considering the submissions and considering the fact that interest at the rate of 12% is granted, Civil Application is disposed of by passing the following order :

i) The Trial Court will permit the Plaintiffs to withdraw a sum of Rs.3,00,000/- on furnishing adequate security. Before accepting the security, the Trial Court will hear the Applicant. The Trial Court will also permit the original Plaintiffs to withdraw a further sum of Rs.3,00,000/- on furnishing bank guarantee of any nationlised bank for the said amount.

ii) The balance amount shall be invested by the Trial Court in a fixed deposit in any nationalised bank initially for a period of five years and thereafter the fixed deposit shall be renewed on yearly basis till the final disposal of the Appeal.

iii) If the original Plaintiffs fail to furnish the security/bank guarantee as the case may be within a period of six months from today, the amount which is permitted to be withdrawn by the original Plaintiffs will also be invested in aforesaid manner by the Trial Court.

Judge.